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5 **Stratham Zoning Board of Adjustment**  
6 **Meeting Minutes**  
7 **May 08, 2012**  
8 **Municipal Center, Selectmen's Meeting Room**  
9 **10 Bunker Hill Avenue**  
10 **Time: 7:00 PM**  
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13 **Members Present:** **Arol Charbonneau, Chairman**  
14 **Jeffrey Karam, Secretary**  
15 **Bruce Barker, Member**  
16 **Kirk Scamman, Member**  
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18 **Members Absent:** **John Dold, Alternate**  
19 **Dave Short, Vice Chairman**  
20 **Chris Brett, Alternate**  
21 **Mike Smith, Alternate**  
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23 **Staff Present:** **Terry Barnes, Building Inspector**  
24 **Lincoln Daley, Town Planner**  
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27 **1. Call to Order/Roll Call:**  
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29 The Chairman took roll call and explained that there were only four members of the Board  
30 present and if any applicants would prefer there were five, they were entitled to request five.  
31 Mr. Prieto, attorney for Ms. René LaVallee, case # 570, said his client would prefer five  
32 members.  
33

34 The Board discussed scheduling a site walk for Ms. LaVallee's property. Mr. Prieto said he  
35 would prefer it, if he could have his own experts come in first to enable his client the chance  
36 to address any issues before the Board and members of the Town came out and took a site  
37 walk.  
38

39 Mr. Karam made a motion to continue Case # 570 until May 22, 2012. Mr. Scamman  
40 seconded the motion. The motion was passed unanimously.  
41

42 **2. Approval of Minutes:**

43 April 10, 2012

44 April 24, 2012

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46 Review of the minutes were moved to the end of the meeting.

1 **3. Public Hearings:**

2 **a. Case# 569: Wayne Williams, 37 Squamscott Road, Map # 21, Lot # 102 within**  
3 **Residential/Agricultural Zoning District.** This is a continued public hearing whereby  
4 the Applicant is requesting a Special Exception from Article V. Supplementary  
5 Regulations, Section 5.4. Accessory Apartments of the Stratham Zoning Ordinance to  
6 construct an accessory apartment to the existing single family dwelling.  
7

8 The Chairman reminded everybody present what had happened at the previous meeting.  
9 The Chairman explained that the Board realized that Mr. Williams wasn't entitled to as  
10 many square feet as originally thought at the previous meeting. Previously, Mr. Williams  
11 was told he was permitted to have a 650 square feet apartment when in fact the maximum  
12 square feet allowed was 630 square feet.  
13

14 Before the Board decided the best course of action to take, an abutter affected by Case #  
15 570 expressed her concern that Ms. LaVallee doesn't own her property, that work has  
16 already been done without proper permits which means Ms. LaVallee can't get financing  
17 for the property, and they have brought in 13 horses which have moved around wetlands.  
18 Mr. Scamman explained that all of this can be discussed on May 22, 2012. The abutter  
19 asked if that meant Ms. LaVallee could continue operating her riding stables.  
20

21 The Board returned to Case # 569. The applicant, Mr. Williams said he would appreciate  
22 it if the Board would allow the extra 20 square feet, but he was happy to proceed with  
23 whatever the Board decides. The Chairman explained the current calculations and then  
24 let the Board members know that the main issue was a window that had already been  
25 constructed. Mr. Karam asked if the transition from the main house to the accessory  
26 apartment was via the three foot door. Mr. Williams answered it is via the garage door,  
27 and that there is an approximately 6 feet connecting roof to the apartment from the  
28 garage.  
29

30 Mr. Daley said the difficulty of this situation is that it already states in the previous  
31 minutes that 650 square feet was the recommended area. He suggested that if there was a  
32 way to modify the interior living area to reduce the current plan by 20 square feet, the  
33 Board might consider that as a modification. He stressed however, the Board did give  
34 that guidance to the applicant and he has complied with that requirement.  
35

36 The Chairman asked the applicant if he could move the wall he is proposing to put up by  
37 a foot and a quarter without interfering with the window that already exists. Mr.  
38 Williams said he could.  
39

40 Mr. Barnes asked if a condition could be added stating that the building mustn't change  
41 into a duplex.  
42

43 The Board ran through the special exception standards as stated in 17.8.2. and the criteria  
44 for an accessory apartment in Section 5.4. The Chairman asked about the parking. The  
45 applicant said there is a paved driveway as well as a crushed rock one and they  
46 accommodate between 4 – 5 cars.

1  
2 Mr. Daley suggested the Board may want to address 5.4.3a-i first as 5.4.3.j speaks to the  
3 conditions of 17.8.2.  
4

5 Mr. Scamman made a motion to close the public hearing. The motion was seconded by  
6 Mr. Barker and the motion was passed unanimously.  
7

8 The Board agreed that the applicant met all the conditions of Section 5.4.3a-i and 17.8.2.  
9

10 Mr. Scamman made the motion to approve Case # 569 for Wayne Williams, 37  
11 Squamscott Road, Map # 21, Lot # 102 with two conditions; one, that the accessory  
12 apartment will be up to one third of the square footage of the house as per the Zoning  
13 Ordinance and this new house will not be converted into a duplex.  
14

15 Mr. Daley suggested that Mr. Scamman add “one third of living area of existing  
16 dwelling”. The motion was seconded by Mr. Karam and was passed unanimously.  
17

18 The Chairman made the applicant aware that there is a 30 day appeal period and  
19 suggested that although the applicant had built the actual building, he should probably not  
20 do the modifications until that period was finished. The Chairman closed the case.

- 21 **b. Case # 570 René LaVallee, 132 Union Road, Map # 15 Lot # 61, within**  
22 **Residential/Agricultural Zoning District.** This is a public hearing whereby the  
23 Applicant requests a Special Exception from Section 3.6 Table of Uses of the Stratham  
24 Zoning Ordinance to allow the applicant to operate a commercial riding stable at said  
25 property.  
26

27 As previously discussed, it was decided that Case # 570 should be continued until the  
28 May 22, 2012 meeting.  
29

- 30 **c. Case # 572: Catherine and Kevin Henry, 6 Chisholm Farm Drive, Map # 21, Lot #**  
31 **121, within Residential/Agricultural Zoning District.** This is a public hearing whereby  
32 the Applicant requests a Variance from Article 11: Wetlands Conservation District  
33 (Overlay), to allow the Applicant to install an in-ground swimming pool within the  
34 twenty five feet no disturbance buffer zone of a delineated wetland.  
35

36 The Chairman read out case # 572. Mr. Karam explained the background of the case and  
37 read out the denial letter from Mr. Barnes.  
38

39 Mr. Bianchi, from Custom Pools explained the reason why his clients were before the  
40 Board. Using a plan he explained that the semi circles represented the radiuses from the  
41 septic tank and property setbacks to show the room that he and his company have to work  
42 with on the property. He continued that there needed to be a 35 feet setback from the  
43 septic system and a 20 feet setback from the property line. He said they tried to see if  
44 there was any other place on the property they could fit the pool. Mr. Bianchi then  
45 shared some pictures of the property itself for the Board to look at and said he was quite  
46 surprised to discover that there are wetlands on the property as it wasn't obvious when he

1 walked the property. He explained that the pool will be a salt water one so no chemicals  
2 are required, they will install silt fences as well as a cartridge filter which means nothing  
3 gets back washed out of the pool. Regular filters need to be changed every two weeks  
4 which would mean water from the pool going into the wetlands, but this type of pool is  
5 very self-contained.  
6

7 The Chairman asked about the drains. Mr. Bianchi explained that those lead back to the  
8 equipment which re-circulates back to the pool so there is no drainage as far as the pool is  
9 concerned. Mr. Scamman asked when the wetlands were delineated. Mr. Bianchi  
10 responded; in 2003 when the property was first developed. Mr. Scamman said it is his  
11 understanding that there have been new wetland regulations since 2003 and it's possible  
12 that there may not be any wetlands out there now. Mr. Bianchi stressed again that he  
13 hadn't seen any evidence at all that there are wetlands there.  
14

15 The Chairman said that one of the issues is that the owner needs to get a letter from the  
16 Homeowners' Association for permission to put a pool in and according to their  
17 covenants; they don't allow any construction in the wetlands.  
18

19 Mr. Daley asked about the covenant. Mr. Henry, the property owner said that the only  
20 thing the covenant requires is that a pool must be an in ground pool and it doesn't  
21 stipulate anything about the wetlands. Mr. Daley read from the covenant; letter i; "except  
22 that as shown on the plan, there should be no further alteration of wetlands or for septic  
23 setbacks except, however, bridged, planked and log crossings or other techniques as may  
24 be necessary to cross wetlands with a minimal impact pursuant to any DES building  
25 permits related to trail improvements and jurisdiction wetlands." Mr. Daley understands  
26 this to mean that there is a small portion of the pool that falls into that delineated  
27 wetlands area. He wondered if it was possible to rotate the pool a little bit. Mr. Bianchi  
28 said he took Mr. Daley's advice and rotated the pool so it is not in the wetlands, but it is  
29 still in the buffer zone. Mr. Daley thanked him for doing that. He then asked about the  
30 concrete pad that surrounds the pool. Mr. Bianchi replied that his understanding is that  
31 the patio doesn't constitute being a structure and can, therefore, be placed wherever. Mr.  
32 Daley responded by saying that the variance does look to try to minimize the impact of  
33 the 25 feet no disturbance zone. In this case the apron around the pool is included so that  
34 means it is encroaching the wetland buffer by 4 -6 feet which is a concern. Mr. Daley  
35 wondered if the apron could be minimized so it is not encroaching upon the wetland  
36 buffer.  
37

38 Mr. Daley said he liked Mr. Scamman's idea of re flagging the wetland areas to see if it  
39 has changed during the last 7 years. He suggested using Rockingham County  
40 Conservation to do it. He continued that in cases like this where there is encroachment  
41 on the wetland setbacks, the Board requires some sort of mitigation measures and gave an  
42 example. Mr. Barnes asked about draining the pool during winter time. Mr. Bianchi  
43 explained that a small amount of drainage is recommended, but it has never been shown  
44 to affect the quality of wetlands.  
45

1 Mr. Daley asked about moving the location to the front side of the property outside of the  
2 50 feet buffer. Mr. Bianchi explained that there is a 5 feet elevation which would add to  
3 the cost and there would have to be a retaining wall put in the back yard to hold  
4 everything in and the cost of filling in would be upwards of \$30,000.  
5

6 Mr. Scamman asked if they moved the pool by a couple of inches, how far out of the  
7 wetlands would that be. Mr. Bianchi said they might be able to get at least 10 inches off  
8 of there and possibly 10 feet away from the wetlands buffer. Mr. Scamman said if they  
9 twisted the pool it would bring it more into compliance with the Ordinance.  
10

11 Mr. Barnes asked if there would be a revised plan to reflect that. Mr. Barker said they  
12 cared about the impervious surface and if the pool was moved there would need to be  
13 mitigation measures put in place for the apron because of the wetlands buffer.  
14

15 The Chairman asked the Board members if they were comfortable with the fact that the  
16 non disturbed area had already been disturbed, and that it is apparently all lawn now. Mr.  
17 Barker said it bothered him. Mr. Barker said he was looking for something on this  
18 property that distinguishes it from its neighbors. Mr. Daley said he provided Mr. Barker  
19 a site plan of the Chisholm Farm development showing the wetland delineations. The  
20 site plan shows that on the side where this property is situated, the front part of the  
21 properties on Chisholm Drive have a long finger that stretches across the front part of the  
22 property. In this case there is an additional finger that runs in the back which affects this  
23 property. There is a brook across the street that runs behind all of the properties so  
24 essentially all of the properties on the south side of the brook are all dry. That is where a  
25 couple of pools have been installed.  
26

27 Mr. Karam asked if the apron was going to be a concrete slab on grade. He asked if the  
28 pool company had ever used pervious pavers. Mr. Bianchi said they use something  
29 called exposed aggregate which is a cement that is embedded with a scone and it's acid  
30 washed out. If needed perimeter drains could be installed. He added that pavers need  
31 time to settle in and require more maintenance as well as costing more.  
32

33 There was a general discussion about the buffer zone already being disturbed. Mr.  
34 Barker then read out from the covenant about the no disturbance buffer "this area shall  
35 remain in its natural state and will not be subject to grading, excavation, building or any  
36 other activity associated with the development of land." Mr. Daley informed the Board  
37 that the Conservation Commission meets tomorrow night and the Board might want to  
38 reach out to the Commission to see how they feel about this application and they may  
39 offer some insights about mitigation efforts and try to minimize the impact on the  
40 wetland itself.  
41

42 Mr. Bianchi said that realistically if this was continued to two weeks from now, the pool  
43 wouldn't be ready for his customers until the end of July. Mr. Daley explained that  
44 while there is a 30 day appeal period, they can proceed at their own risk.  
45

1 Mr. Daley asked if it would help if the pool was rotated counter clockwise, to have the  
2 majority of the apron on the front side and not have any on the back side next to the  
3 wetland area. Mr. Bianchi said yes it would be possible. Mr. Karam said in an ideal  
4 world, they should get their wetlands reassessed.  
5

6 Mr. Bianchi gave an example of a job he walked away from due to wetland problems and  
7 compared the difference between that property and 6 Chisholm Farm Drive. He feels that  
8 there are no true wetlands on the property. The Chairman said he believed that, but they  
9 weren't the experts.  
10

11 Mr. Barker said he felt that they should go before the Conservation Commission. If the  
12 Commission says there are no ways to mitigate it, then that would be a good reason to get  
13 the wetlands reflagged.  
14

15 Mr. Daley and the homeowner offered to assist as Mr. Bianchi could not attend the  
16 Conservation Commission meeting.  
17

18 Mr. Daley asked the Board if there were other areas in the variance requirements that  
19 caused them concern so they could offer some guidance to the applicant. Mr. Barker  
20 started by addressing the requirement of demonstrating an unnecessary hardship and  
21 explained to the applicant that he would need special conditions to the property that  
22 distinguish it from other properties in the area. Mr. Daley suggested that one could raise  
23 the point that other properties also have pools as accessory uses on their properties. In  
24 this case the back side of the property is restricted by evidence of there being wetlands in  
25 the corner of the property along with a fifty foot setback requirement for poorly drained  
26 soils which is somewhat different than some of the properties in this development. One  
27 could argue that this property is somewhat of an exception in that the building envelope  
28 is so small. Other properties have a better opportunity because of the absence of  
29 wetlands on the property itself. Mr. Barker said he was looking to see if other properties  
30 in the area were equally constrained by the size of their building envelopes. Mr. Daley  
31 said he had a plan available if the Board wanted to see it.  
32

33 Mr. Barker continued reading through the variance criteria. He commented he would  
34 have to think about whether the spirit of the Ordinance is being observed. Mr. Karam  
35 observed that if the applicant goes to the Conservation Commission meeting and they say  
36 there are no ways to mitigate it that goes back to the applicant needing to get the wetlands  
37 flagged again.  
38

39 Mr. Karam made a motion to continue Case # 572 to May 22, 2012. Mr. Scamman  
40 seconded the motion and it was passed unanimously.  
41

42 Mr. Daley reminded the applicant to get a letter from the Homeowners' Association  
43 giving them permission to install a pool.  
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45 The Board reviewed the minutes. April 24, 2012, page 4, line 40 should say Mr. Short  
46 and not Mr. Barker.

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Mr. Scamman made a motion to pass the April 24 minutes as amended. The motion was seconded by Mr. Karam and passed unanimously.

Mr. Charbonneau made a motion to pass the April 10 minutes. The motion was seconded by Mr. Barker and the motion was passed unanimously.

**4. Miscellaneous**

There was nothing to report.

**5. Adjournment**

Kirk Scamman made a motion to close the meeting at 8:47 p.m. This was seconded by Mr. Karam and the motion passed unanimously.